

# COMMONWEALTH OF VIRGINIA

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## VIRGINIA HOUSING COMMISSION

### Meeting Summary

October 23, 2009; 10 A.M.

6<sup>th</sup> Floor Speaker's Conference Room, General Assembly Building  
Richmond, Virginia

**Members Present:** Delegate D. Marshall (chair), Senator Watkins, Delegate Hull, Alexander Macaulay, Travis Hill, Judson McKellar, Jr., Gerry Milsky, Joseph Face, Duke deHaas, Nick Kyrus, Steve Baugher, Susan Hancock

**Staff Present:** Elizabeth Palen, Diana Pharao

#### 1. Welcome and Call to Order-Delegate Danny Marshall (chair)

- Meeting was called to order by Delegate Marshall at 10:03 A.M.
- Introductions.

#### 2. Gerry Milsky, Citigroup

- Made first attempt to draft legislation meeting requirements to register mortgage lenders and brokers with Nationwide Mortgage Licensing System and Registry (NMLS).
- Had two weeks to accomplish four objectives:
  - Extend commission's authority to require those seeking a license to register with NMLS;
  - Clarify that any fees charged by NMLS for this process would not be considered a charge by the Commission; the fees are separate and apart;
  - State who will be responsible for collecting the fees, i.e. whether the registry collects all the fees and allocates the registry fee portion to the Commission; and
  - Ensure State Corporation Commission has the authority to enter into written agreements with the registry.

#### 3. State Corporation Commission (SCC)\_ - Joseph Face, Commissioner, Bureau of Financial Institutions

- Commended Gerry Milsky on his working draft; great starting point.
- Stressed that there is still much to learn about the system; what is finally passed by the General assembly will most likely be more in-depth.

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DELEGATE JOHN A. COSGROVE  
DELEGATE ROSALYN R. DANCE  
DELEGATE ROBERT D. HULL  
DELEGATE DANIEL W. MARSHALL, III  
DELEGATE G. GLENN ODER

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SENATOR JOHN C. WATKINS  
SENATOR MARY MARGARET WHIPPLE

F. GARY GARCZYNSKI  
T. K. SOMANATH  
MELANIE S. THOMPSON

- In the two-weeks since the last meeting, there was not enough time to fully examine the chapter in Virginia law dealing with mortgage lenders and brokers.
- In last meeting, he mentioned this will be a six-month transition process.
  - Virginia can get their name on the list and begin the transition; thus, assuming there will be legislation, the transition could be completed by April.
- **Delegate Marshall**—*If Virginia gets on the list, but legislation doesn't pass, can we get off the list?*
  - Yes.
- **Senator John Watkins**—*Is this draft more of a placeholder?*
  - Good way to characterize it; this will provide a good idea of the legislation that will be needed before the opening legislative session deadline.
- **Delegate Bob Hull**—*Pre-filing is good. In speaking of technical aspects, make sure all of the definitions from last year's bill are consistent with this year's bill; all definitions in the Code must remain consistent. Should we have in legislation some general authority to allow the SCC to address new things that may come up?*
  - Re-draft provides for legislative authority and the fact that the Commission has the authority to promulgate regulations provides that out-of-session ability.
- **Delegate Hull**—*Do you feel you have the authority to take administrative action, e.g. regarding fees, before legislative action?*
  - Yes, SCC can act by regulation if there is a controversial question and the SCC needs to do something administratively.

#### 4. State Corporation Commission, Duke deHaas

- The SCC is amenable to moving forward with Gerry Milsky's proposal.
- However, the SCC's proposal is superior because it is more direct.
- This is an ongoing process; we have learned that Virginia can apply to get on the system without legislation in place. We are not ready to apply yet, but we are working on the details.
- There is no need for the SCC to take immediate regulatory action.

#### 5. Travis Hill, Virginia Housing Development Authority

- Expressed concern regarding the fact that both the registry and the Bureau charge fees.
  - Hopes the Bureau will take the fees companies already paid to the registry into account when charging their own fees; licensees should not be doubly charged.

#### 6. Discussion ensued regarding dispute resolution

- **Senator Watkins**—*Will the Commission issue a license as well?*
  - **Joseph Face**—No.
    - The system was designed to encompass the registering and licensing of both mortgage companies and MLO's; it would be inefficient for the SCC and the industry if we only used the system partially.

- It would be much more efficient if we use the system for what it was intended for, which should translate into some savings.
- **Senator Watkins**—*Will the SCC still have the authority to act with regard to the licenses once companies are registered into the system?*
  - Once registered in the system, licensing authority lies with the states. The SCC has no authority.
- **Senator Watkins**—*Is the registry authorized by Federal Law?*
  - Authorized for individuals; no federal statute or regulation that requires or authorizes the same for mortgage companies.
    - Congress may not have contemplated that a state was not using the system.
- **Senator Watkins**—*If a mortgage lender/broker encounters a problem with the system, and they call me, do I call the SCC? What recourse does my constituent have?*
  - If someone calls reporting a problem, the legislator would call Joseph Face; Mr. Face would then call the Board of Directors of the state regulatory registry (Board of Directors oversees registry system). If speaking with the Board proves unsatisfactory, next recourse is to call someone at HUD (has direct/indirect oversight over the situation). After these options are exhausted, then call someone from Congress.
- Ultimate licensing authority resides with the state, but mortgage lenders/brokers can channel their application process through a national system; there is a dispute resolution process if a problem arises.
- If a company is registered and licensed in two states, and the license is revoked in one of those states, the licensee is required by law to notify the SCC. Depending on the circumstances, the SCC may or may not take action.
  - Revocation statutes permit SCC to revoke a license based on the action of another state.
  - Revocation of a license in one state does not necessarily preclude someone from retaining a license in Virginia.
- **Delegate Hull**—*There is no authority for this legislatively under federal law; a national group needs to suggest to the appropriate congressional chairs that this be addressed.*

## 7. Discussion ensued regarding exempt entities

- Cannot require entities exempt under SAFE Act to register, but if they need a unique identifier, they will have to register.
- **Senator Watkins**—*We will need to make sure that there is authority to get exempt entities registered and that the SCC will register them.*

## 8. Closing Request, Delegate Marshall

- Requests a meeting on Monday, December 7, 2009 at 1 PM, which is the day before the last Housing Commission meeting; would like a final product of bill before it is introduced to the full Housing Commission.

## 9. The meeting was adjourned at 11:00 A.M.